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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,154	02/26/2004	Klaus Luik	028987.53108US	9147

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EXAMINER

PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,154

Applicant(s)

LUIK ET AL.

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/04 & 7/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-21, drawn to a ceiling covering, classified in class 296, subclass 214.
 - II. Claim 22, drawn to a method of making a roof assembly, classified in class 29, subclass 91.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of group II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product does not require prestressing.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. Evenson on March 16, 2005 a provisional election was made without traverse to prosecute the invention of group I, claims 1-21.

Affirmation of this election must be made by applicant in replying to this Office action. Claim 22 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 11 are indefinite in “can be glued” as it is not clear if gluing is being recited or not. In this regard, almost any structure can be glued, so what is the purpose of such claim language?

Claims 6-10, 19 are indefinite in reciting alternative structures. Suggest --one of...-- be used.

Claims 11, 13 appear to be incorrect in that the ceiling covering is pulled around an upright edge of the ceiling element, not the roof cutout.

Claim 12 appears to be incorrect in “roof cutout” for --covering--.

Drawings

8. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the covering held between the upright leg and an edge of the roof cutout, claims 1 and 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 1, 3, 5, 6, 8, 10, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara in view of Weigend.

Kuwabara has the ceiling covering 22, molded ceiling element 23, the former pulled around the latter, and clamping pieces 25, 31 disclosed for linear sections of the opening. Weigend teaches that all sections of the roof covering for an opening can be held by a surrounding frame including straight (8,9) and corner sections (7). Leather and imitation leather are of common knowledge in this art, obvious to use for their aesthetic value. It would have been obvious to one of ordinary skill to provide in Kuwabara an all around clamping frame as taught by Weigend in order to smoothly fasten all sections of the covering, including corner sections.

As to claim 3, see clamping frame 8 in figure 5, bendable in figure 6, using lugs 13 on the corner sections and slots 14 on the frame 8. Reversal of these members 13/14 to the respective members 8/7 is deemed to be an obvious reversal of parts with no discernable difference in function.

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As to claim 6, use of studs, nuts or rivets to secure members together is common knowledge in the art, obvious to use here to enhance securement.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

12. Claims 13, 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara in view of Weigend as applied to claim 1 above, and further in view of Humber Limited.

Paragraph 11 above is incorporated by reference. It would have been obvious to one of ordinary skill to glue the covering to the ceiling element as taught by Humber Limited in order to ensure retention uniformly around the opening.

As to claim 20, Weigend discloses metal sheet.

13. Claims 2, 4, 7, 9, 12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara in view of Weigend as applied to claim 1 above, or further in view of Humber Limited as applied to claim 13 above, and further in view of Sturtevant et al.

It would have been obvious to one of ordinary skill to provide in the references above prongs on the clamping piece as taught by Sturtevant et al. at 42,78 in order to firmly secure the covering. Orientation appears to be irrelevant to the function of securing.

Conclusion

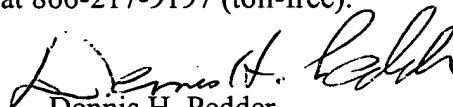
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Oddsen shows a clamping technique for upholstery.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dennis H. Pedder
Primary Examiner
Art Unit 3612

3/17/05

DHP
3/17/2003